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RHEHNSC/NSC WASHDC PRIORITY
RUEAWJA/DEPT OF JUSTICE WASHDC PRIORITY
RUEAIIA/CIA WASHDC PRIORITY
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C O N F I D E N T I A L SECTION 01 OF 02 JAKARTA 002688

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TAGS: [PGOV](#) [KCOR](#) [KPAO](#) [PHUM](#) [ID](#)
SUBJECT: "SLIPPERY SLOPE" FOR PRESS FREEDOM? -- COURT
RULING ON SUHARTO/TIME ASIA NETS HARSH CRITICISM

REF: A. JAKARTA 2525
[1](#)B. JAKARTA 2229
[1](#)C. JAKARTA 1920
[1](#)D. 06 JAKARTA 1808
[1](#)E. 04 JAKARTA 8766

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Classified By: Pol/C Joseph Legend Novak, reasons 1.4(b)(d).

[1](#)1. (C) SUMMARY: A recent Supreme Court decision awarding former president Suharto USD 106 million in damages from Time Asia has drawn intense criticism. Critics have attacked the legal basis of the decision and warned of its potential impact on press freedom in Indonesia -- one M.P. told Pol/C that the ruling set Indonesia on "the slippery slope to a muzzled press." Time is preparing a final appeal. The ruling may undercut the ongoing efforts by the GOI to reclaim millions of dollars of Suharto's ill-gotten gains. Although some of the criticism seems a bit over the top--the media continues to criticize public officials freely--it is a testament to the dissonance sparked by the ruling. END SUMMARY.

[1](#)2. (U) SUHARTO WINS BIG: The Supreme Court on September 10 ordered Time Asia to issue a formal apology and pay former president Suharto 1 trillion IR (USD 106 million) in damages for defamation of character (ref A). The ruling overturned the decisions of two lower courts which had ruled against the former president. The suit concerned a May 1999 article which described how Suharto and his family had accumulated USD 15 billion in ill-gotten gains over the course of his 30-year rule. The written decision has yet to be released, but the Court cited Time's inability to prove conclusively two items in the article: an alleged USD 9 billion international bank transfer and Suharto's illicit ownership of a house.

[1](#)3. (SBU) A LONG-SHOT APPEAL: Time Asia has announced that it intends to file a request for Judicial Review of the

decision. The review would be decided upon by the Supreme Court, however, which made the original ruling (usually such requests are turned down). A contact at Time Asia welcomed the UN's recent Stolen Assets Recovery Initiative, which details Suharto's wealth and lists him as one of the world's most corrupt dictators, noting that the report provides further backing to the claims contained in Time's article. It remains unclear whether the Court will in fact be able to enforce the judgement if it is upheld on appeal. Time Asia does not have an office or assets in Indonesia, and Time Asia has given no indication that it intends to pay anything or apologize.

¶4. (C) INTENSE CRITICISM: The Supreme Court ruling has come under heated attack. Media experts and press groups claim that it threatens press freedom and will hinder future investigations into corruption allegations. Tempo magazine, Indonesia's leading weekly, which narrowly escaped a negative ruling in a similar defamation suit in 2006 (ref D), called it a "death knell" for freedom of the press. Observers also question the Supreme Court's use of the general criminal code--rather than the 1999 Press Law which supports freedom of the press--to adjudicate the decision. The Press Law, which was cited in the lower court decisions, places specific burdens on the plaintiff which the criminal code does not. The use of the Criminal Code in the decision contrasts with the public statements of Supreme Court Chief Justice Bagir Manan, who in a 2004 speech urged judges to use the Press Law for these types of disputes (ref E). The enormity of the damage award has attracted attention as well. A contact at the Supreme Court admitted privately that the award was "very high."

¶5. (C) POLITICIANS LASH OUT: While some political figures have called for the decision to be respected, members of the national legislature (DPR) from several parties, including

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the head of the DPR Committee on Judicial Affairs, Trimeyda Panjaitan, have sharply criticized the ruling. Panjaitan suggested the judges might have been bribed, which the Court heatedly denied. In a September 21 conversation with Pol/C, Marzuki Darusman, a former Attorney General and a member of the DPR Commission on Foreign Affairs and Defense, commented that the ruling set Indonesia on "the slippery slope to a muzzled press."

¶6. (C) IMPEDING THE AGO?: In the short term, the ruling may stymie current legal actions against Suharto and his family. These include a civil suit filed by the Attorney General against the Suharto-affiliated Supersemar Foundation (ref c), several criminal investigations into his notorious son Tommy Suharto, and an attempt to seize USD 50 million in assets held by Tommy in a bank in Guernsey, England. Some observers have speculated that the decision, suddenly announced after six years of apparent inaction on the case, was dredged up to thwart the efforts of the new Attorney General, Supandji, in reclaiming Suharto's ill-gotten gains (ref b). Over all, while some of the criticism seems a bit over the top--Indonesian media remains free to criticize public officials--it is a testament to the disquiet sparked by the ruling.

HUME